

# **CITY OF HORSESHOE BAY**

## **BOARD OF ADJUSTMENT**



**OCTOBER 24, 2017**

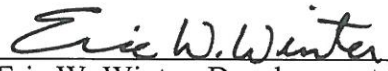
**3:00 P.M.**

## CITY OF HORSESHOE BAY

### BOARD OF ADJUSTMENT

Notice is hereby given to all interested members of the public that the Horseshoe Bay Board of Adjustment will hold a Public Meeting beginning at 3:00 p.m., on Tuesday, October 24, 2017 in the City Council Chambers at City Hall, #1 Community Drive, Horseshoe Bay, Llano County, Texas. The agenda for the Public Meeting is to discuss and/or act on the following:

1. Call the Meeting to Order and Establish a Quorum
2. Pledges to the Flags
3. Approval of the Minutes of the September 26 Meeting
4. Distribute Revised By-laws and Rules of Procedure Approved at the September 26 Meeting
5. Postponed Public Hearing, Discussion and Action on a Request by Lisa Martin for a 5 Parking Space Variance from Section 14.02.406(j)(3)(G) for Lot Numbers C19119 – C19123 of Horseshoe Bay Plat No. H19.1 in the 100 Block of Mulligan Court/*Chris Laird Applicant*
6. Adjournment

  
Eric W. Winter, Development Services Dir.

The Board of Adjustment may go into closed session, if necessary and appropriate, pursuant to the applicable section of the Texas Open Meetings Act, Texas Government Code, Chapter 551, Subchapter D, on any matter that may come before the Board that is listed on the Agenda and for which a closed session is authorized. No final action, decision, or vote will be taken by the Board on any subject or matter while in closed session. Any action, decision or vote will be taken by the Board only in open meeting.



**CITY OF HORSESHOE BAY**  
**BOARD OF ADJUSTMENT**  
**MINUTES OF REGULAR MEETING**

September 26, 2017

The Board of Adjustment of the City of Horseshoe Bay held a Regular Meeting at City Hall, in the City Council Chambers located at #1 Community Drive, Horseshoe Bay, Llano County, Texas, on September 26, 2017, in accordance with the duly posted notice of said meeting.

The posted agenda for this meeting is made a part of these minutes by attachment and the minutes are herewith recorded in the order the agenda items were considered, with the agenda subject and item number shown preceding the applicable paragraph.

1. **Call the Meeting to Order and Establish a Quorum:** The meeting was called to order at 3:00 p.m. by Board Chairman David Pope. Board Members present were:  
Chairman David Pope  
Vice-Chairman Jim Babcock  
Board Member Lee Peterson  
Board Member Elaine Waddill  
Board Member Frank Gracely
  
- Also in attendance were Mayor Pro Tem Craig Haydon, Mike Thuss, Kent Graham, Chris Laird, Joey Martin, Clifford Grubbs, and Roy Busse.
  
2. **Pledges to the Flags:** The pledges to the U.S. and Texas flags were led by Frank Gracely.
  
3. **Approval of the Minutes of the July 20 1 PM and 3 PM Meetings:** Frank Gracely made a motion to approve the minutes as written, seconded by Lee Peterson seconded and the motion passed unanimously (5-0).
  
4. **Review, Discussion and Possible Action Regarding the Revised By-laws and Rules of Procedure Approved at the July Meeting and City Attorney Review Comments:** Chairman David Pope, Board Member Frank Gracely, and Development Services Director Eric Winter discussed options for for City Council to approve staggered terms for the Board Members. The Board asked staff to prepare an Ordinance Amendment to allow for staggered terms. Staff will provide an Ordinance Amendment that requests City Council to institute staggered terms for Board Members.

Horseshoe Bay POA President Mike Thuss asked to provide comments regarding this and asked that Section M. Special Exception on Variance for Parking Requirements on page 5 of the Board of Adjustment Rules be clarified. Eric Winter responded that parking plans are only required for the purpose of a Variance request, not for the plan review process. Mike also asked about the appeals process for items that are approved or denied by the Board. Eric Winter and Vice Chairman Jim Babcock stated that there is an appeals process and it would need to be filed in the District Court. Mr. Thuss added also that the Horseshoe Bay POA has no objection to Clifford Grubbs request for a Variance on item #5 on this agenda.

David Pope commented on the request to consider a Secretary for the Board of Adjustment. He feels that there are not enough applications at this time to consider appointment of a Secretary but would like for the option to exist if the need should arise in the future.

Jim Babcock made a motion to approve the Bylaws as revised, seconded by Frank Gracely. The motion passed unanimously (5-0).

Chairman David Pope asked if there were any comments on the Rules of Procedure as amended. There was no further comment. Lee Peterson moved to approve the Rules of Procedure as amended, seconded by David Pope. The motion passed unanimously (5-0).

5. **Public Hearing, Discussion and Action on a Request by Clifford Grubbs for a 19 Foot Variance in the 20 Foot Front Yard Setback Requirement of Section 14.02.406(c)(3)(A) of the Zoning Ordinance for Lot Numbers N3075 and N3076 of Horseshoe Bay Plat No. N3.17 located in the 400 Block of Lucy Lane:** Chairman David Pope called on Development Services Director Eric Winter to review the details of this item. Mr. Winter read the items from the Staff memo provided in the Board packet. Based on these findings staff recommends approval of this variance. Mr. Pope then opened the floor for the public hearing at 3:17 p.m. There were no comments from the audience and Mr. Pope closed the meeting at 3:18 p.m.

Vice Chairman Jim Babcock mentioned that there were no public hearing signs posted on this property to notify the public of a pending public hearing. Mr. Winter stated that signs are not required to be posted for all public hearings, only as required, and that staff has been short-staffed and was not able to post the signs. Mr. Babcock added that he feels there should be a requirement that signs be posted at this property for another 30 days to avoid the possibility of any future recourse by landowners who may state that they were not properly notified. Clifford Grubbs stated that he followed the requirements for public notice by informing all land owners within 500 feet in writing at 30 days and 16 days before the hearing. Also, he published notices in two newspapers twice before the hearing. He stated that he has purchased these properties on the condition that this Variance is approved and that requiring him to delay the purchase for another 30 days would present a hardship on his contractual terms to purchase these properties.

With all the information provided, Chairman David Pope moved to approve the Variance, seconded by Elaine Waddill. The motion passed unanimously (5-0).

6. **Public Hearing, Discussion and Action on a Request by Lisa Martin for a 5 Parking Space Variance from Section 14.02.406(j)(3)(G) for Lot Numbers C19119 – C19123 of Horseshoe Bay Plat No. H19.1 in the 100 Block of Mulligan Court – Insufficient public notice–requires postponement to October 24 meeting:** Chairman David Pope called on Eric Winter to provide comments on this item. Mr. Winter stated that the Board should postpone action regarding this item due to the fact that the applicant did not provide sufficient mailed public notice to all property owners within 500 feet of the boundary of the 5 lots. Vice Chairman Jim Babcock moved to postpone this item, seconded by Frank Gracely. The motion passed unanimously (5-0).
7. **Discussion and Possible Action Regarding Election of a Board Secretary:** This item was removed from the agenda due to previous discussion with Item #4 of this agenda.



**8. Discussion and Possible Action Regarding Appointment of Alternates to the Board:**

The Board discussed this item and have requested that an Ordinance Amendment be presented to City Council to allow for a pool of 3 alternates to be appointed, rather than the current one alternate per each Board Member. Staff offered to prepare and present an Ordinance Amendment for City Council consideration. Frank Gracely moved to request the Ordinance Amendment, seconded by Vice Chairman Jim Babcock. The motion passed unanimously (5-0).

**9. Adjournment:** The meeting was adjourned at 3:37 p.m. on a motion by Frank Gracely, seconded by Lee Peterson. The motion passed unanimously.

APPROVED this 24<sup>th</sup> day of October, 2017.

**CITY OF HORSESHOE BAY, TEXAS**

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**David Pope, Chairman**

**ATTEST:**

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**Eric W. Winter, Development Services Director**



# **CITY OF HORSESHOE BAY BOARD OF ADJUSTMENT**

**OCTOBER 24, 2017**

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**To: Board of Adjustment**  
**From: Eric W. Winter, Development Services Director**  
**RE: Board Meeting Information**

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**This Memo provides information regarding this BOA meeting which I will not be attending.**

- 1. Item #4 - I am providing clean copies of both the By-Laws and the Rules of Procedure approved by the Board at the September meeting.**
- 2. Item #5 - The Board postponed action on this item to the October 24<sup>th</sup> meeting, and the applicant did a complete renotification in the 2 newspapers and the mailed notices on September 20 in order for the 30+ day notice requirement to be met. The applicant will also mail notices only to the 13 lot owners about this meeting 16-29 days ahead for proper public notice to be made to them. The Board can request the applicant to provide proof of such notice before signing off on the Variance Approval Form, if approved.**

**Let Jessica Noaker know if you have any questions.**



# **CITY OF HORSESHOE BAY BOARD OF ADJUSTMENT BYLAWS**

## **ARTICLE I. NAME AND PURPOSE**

**Section 1.1. Name.** Board of Adjustment ("Board").

**Section 1.2. Purpose.** The Board is established to exercise the powers and duties of a board of adjustment as permitted by law, including Local Government Code Chapter 211 and Article 14.02 Zoning Ordinance of the City Code of Ordinances, as each may be amended. *See Ordinance Sec.14.02,191*

## **ARTICLE II. MEMBERSHIP**

**Section 2.1. Number of Members.** The Board will be comprised of five (5) Members.

**Section 2.2. Eligibility.** Members of the Board may not also be Members of the City Council or Planning and Zoning Commission.

**Section 2.3. Appointment of Board Members.** Members of the Board shall be appointed by the City Council each year in December.

**Section 2.4. Terms of Office.** Generally, terms of office for each Member shall be two (2) years. Generally, a Member may serve four (4) consecutive terms. Refer to *Ordinance Section 14.02.194(c)* for additional provisions regarding terms of office.

**Section 2.5. Vacancies.** Vacancies that occur during a term shall be filled as soon as reasonably possible by Council appointment by a simple majority vote. If possible, the Member shall continue to serve until the vacancy is filled. An appointment to fill a vacated term is not included as a term for purposes of counting consecutive terms. Vacancies that occur in the middle of a term can be filled by Council appointment with a new two year term.

**Section 2.6. Compensation and Expenditure of Funds.** Members serve without compensation. The Board and its Members have no authority to expend funds or to incur or make an obligation on behalf of the City unless authorized and approved by the City Council. Members may be reimbursed for expenses authorized and approved by the City Council and the Board.

**Section 2.7. Compliance with City Policy.** Members will comply with City Ordinances, Rules and Policies applicable to the Board and the Members, including but not limited to the *City's Code of Ethics*

**Section 2.8. Removal.** A Member may be removed from the Board for cause, on written charge. Before the decision regarding removal is made, the City Council shall hold a public hearing on the matter unless waived by the Member that is subject to the removal action. Removal shall be by majority vote of the City Council.

**Section 2.9. Alternates.** An alternate member may be appointed for each position. An alternate member may serve in the event of absence or disqualification of the member in that position.

### **ARTICLE III. BOARD OFFICERS**

**Section 3.1. Officers.** The Board Officers are Chairman, Vice-Chairman and, if required, a Secretary. The Chairman is approved by the City Council during the annual appointment process. The other Board Officers are elected by a majority vote of the Members at the first meeting after the annual appointment process.

**Section 3.2. Terms of Office for Board Officers.** Board Officers serve for a term of one year. In the event of vacancy in the office of Chairman, the Vice-Chairman shall serve as Chairman until the City Council appoints a replacement Chairman. A vacancy in the other offices shall be elected by majority vote of the Members at the next regularly scheduled meeting, or as soon as reasonably practical for the unexpired term. If possible, a Board Officer shall continue to serve until the vacancy is filled.

#### **Section 3.3. Duties.**

- a. The Chairman presides at Board meetings. The Chairman shall generally manage the business of the Board. The Chairman shall perform the duties delegated to the Chairman by the Board.
- b. The Vice-Chairman shall perform the duties delegated to the Vice-Chairman by the Board. The Vice-Chairman presides at Board meetings in the Chairman's absence. The Vice-Chairman shall perform the duties of the Chairman in the Chairman's absence or disability.
- c. The Secretary shall perform the duties delegated to the Secretary by the Board.

### **ARTICLE IV. MEETINGS**

**Section 4.1. Time and Date of Regular Meeting.** Meetings and hearings of the Board shall be held at the call of the Chairman and at such times as the Board may determine. All meetings and hearings shall be public. Each case before the Board must be heard and approved by at least 75 percent of the Members.

**Section 4.2. Agenda.** Items may be placed on the agenda by the Chairman, the



Development Services Director, or at the request of a Member. The party (or individual) requesting the agenda item will be responsible for submitting a Variance Application and the required public notices and for the initial presentation at the meeting. Items included on the agenda must be submitted to the Development Services Department no later than two weeks before the Board meeting at which the agenda item will be considered. Agenda packets for regular meetings will be provided to the Members in advance of the scheduled Board meeting. Agenda packets will contain the posted agenda, staff reports, Variance Approval Forms and written minutes of the last meeting.

**Section 4.3. Special Meetings.** Special meetings may be called by the Chairman or on written request of two (2) Members.

**Section 4.4. Quorum.** A quorum shall consist of a majority of the Members. A quorum is required for the Board to convene a meeting and to conduct business at a meeting. Attendance and approval of at least 75 percent of the Members is required to hear and determine a case.

**Section 4.5. Call to Order.** Board meetings will be called to order by the Chairman or, if absent, by the Vice-Chairman. In the absence of both the Chairman and Vice-Chairman, the meeting shall be called to order by the Secretary, and a temporary Chairman shall be elected to preside over the meeting.

**Section 4.6. Conduct of Meeting.** Board meetings will be conducted in accordance with these Bylaws and Roberts Rules of Order Newly Revised, as applicable to the Board.

**Section 4.7. Voting.** Each Member shall vote on all agenda items, except on matters involving a conflict of interest, substantial financial interest or substantial economic interest under state law or other applicable Laws, Rules and Policies. In such instances, the Member shall make the required disclosures and shall refrain from participating in both the discussion and vote on the matter. The Member may remain at the dais or leave the dais, at the Member's option, while the matter is being considered and voted on by the other Board Members. Unless otherwise provided by law, each case before the Board must be heard and determined by at least 75 percent of the Members. Any request not approved by affirmative vote of at least four Members shall be considered denied.

**Section 4.8. Minutes.** A recording or written minutes shall be made of all open sessions of Board meetings. The minutes shall show the vote of each Member upon each question or, if absent or failing to vote, indicating such fact, and examinations and other official actions. The Development Services Director is the custodian of all Board records and documents.

**Section 4.9. Attendance.** Members are required to attend Board meetings prepared to discuss the issues on the agenda. A Member shall notify the Chairman and the Development Services

Director if the Member is unable to attend a meeting. Excessive absenteeism will be subject to action under Council policy and may result in the Member being replaced on the Board. See *Ordinance Section 14.02.194(e)*. Excessive absenteeism means failure to attend three consecutive regular meetings or four total meetings in the preceding twelve-month period. If a Member is removed from the Board that position shall be considered vacant and a new Member shall be appointed to the Board in accordance with Section 2.5 above.

**Section 4.10. Public Participation.** In accordance with City policy, the public is welcome and invited to attend Board meetings and to speak on any item on the agenda. A person wishing to address the Board must sign up to speak in accordance with the policy of the City concerning participation and general public comment at public meetings. Sign-up sheets will be available and should be submitted to the Chairman prior to the start of the meeting. If any written materials are to be provided to the Board, a copy shall also be provided to the Development Services Director for inclusion in the minutes of the meeting. Speakers shall be allowed a maximum of three minutes to speak. If a person wishes to speak on an issue that is not posted on the agenda, they must file a written request with the Development Services Director no later than one week before the scheduled meeting. The written request must state the specific topic to be addressed and include sufficient information to inform the Board and the public. A person who disrupts the meeting may be asked to leave and be removed.

**Section 4.11. Open Meetings.** Public notice of Board meetings shall be provided in accordance with the provisions of the Texas Open Meetings Act. All Board meetings and deliberations shall be open to the public, except for properly noticed closed session matters, and shall be conducted in accordance with the provisions of the Texas Open Meetings Act.

**Section 4.12. Closed Sessions.** The Board may conduct closed sessions as allowed by law, on properly noticed closed session matters, such as consultation with attorney on legal matters, deliberation regarding the value of *real* property, competitive utility matters, and economic development negotiations. A recording or certified agenda shall be made of all closed sessions of Board meetings.

## ARTICLE V. BYLAWS AMENDMENTS

These Bylaws may be amended by majority vote of the Board Members at any regular meeting of the Board. The Board's proposed amendments to the Bylaws must be approved by City Council at the next Council meeting after the Board's approval. Bylaw amendments are not effective until approved by City Council.

Adopted and approved on this 26<sup>th</sup> day of September, 2017 by a vote of the Board of Adjustment of the City of Horseshoe Bay, Texas.

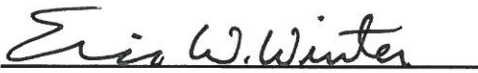


**CITY OF HORSESHOE BAY, TEXAS**

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**David Pope, Chairman**

**Attest:**

A handwritten signature in cursive script, reading "Eric W. Winter", is written over a horizontal line.

**Eric W. Winter**

**Development Services Director**

# CITY OF HORSESHOE BAY

## BOARD OF ADJUSTMENT

### PROPOSED RULES OF PROCEDURE

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## **ARTICLE I**

### **Officers**

**Section A. Officers Named:** The officers shall be Chairman and Vice-Chairman. The Chairman shall be appointed by the City Council in accordance with their appointment procedures and the Vice-Chairman shall be elected by the Board at the first meeting of the year.

**Section B. Chairman's Duties:** The Chairman is the Presiding Officer and Spokesperson for the Board. The Chairman may delegate Board business from time to time.

**Section C. Vice-Chairman's Duties:** The Vice- Chairman shall serve as Chairman in the absence of the Chairman.

## **ARTICLE II**

### **Meetings**

**Section A. Initial Meeting of the Board:** The first meeting establishing the Board shall be an organizational meeting at which the By-Laws and Temporary Rules of Procedure are reviewed and acted on. The Vice-Chairman shall also be elected at this meeting. There shall be no items for any Variance, appeal, or exception on the agenda for this meeting.

**Section B. First Meeting of a New Board:** If all Board members are replaced at the end of their two-year term, the first meeting of the new Board shall be a joint meeting of the outgoing (old) Board and the incoming (new) Board. The outgoing Chairman shall call the meeting to order and shall preside until the outgoing Board meeting concludes. There shall be no items for any variance, appeal, or exception on the agenda for this meeting. The outgoing Board shall approve the minutes of all previous meetings. The incoming Board shall adopt temporary or permanent Rules of Procedure and such rules shall take effect immediately and remain in effect until amended as outlined in **Article VI - Amendments to Rules of Procedure**. Said Rules may be adopted "As Is" or adopted "As Amended" by a majority vote (four (4) or more votes) of the Board. All other amendments shall be adopted pursuant to **Article VI- Amendments to Rules of Procedure**. If the Board membership does not change, or less than four (3) members change, the first meeting of the reappointed Board shall be a continuation of the previous Board's last meeting.

**Section C. Regular Meetings:** Regular meetings of the Board of Adjustment shall be held at 3:00 P.M. on the fourth Tuesday of each month, unless there are no applications to consider, in the Council Chambers of City Hall, 1 Community Drive, Horseshoe Bay Texas.

**Section D. Special Meetings:** Special meetings may be called by the Chairman or any two members of the Board, of which notice shall be given in conformity with the Texas Open Meetings Act and procedures of the City of Horseshoe Bay, Texas.

**Section E. Open Meetings Act:** All meetings shall comply with the Texas Open Meetings Act pursuant to Chapter 551, Texas Government Code.

**Section F. Adding Agenda Items:** Agenda items for discussion only may be added by the Development Services Director, the Chairman or any two members of the Board not later than 12:00 noon on the seventh (7<sup>th</sup>) calendar day prior to a meeting.

**Section G. Sign-Up Form for Speakers:** There shall be Sign-Up Forms for the purpose of permitting members of the public to address agenda items. Such forms shall be available to the public and forwarded to the Chairman so that such person's names may be called to address the Board at the appropriate time. All testimony shall be given under oath.

**Section H. The Agenda:** Except as provided in Section B of this Article, the Agenda at all regular and special meetings of the Board shall be as follows:

1. Call to Order
2. Pledges to the Flags (US and Texas)
3. Certification of a Quorum
4. Public Comments (those speaking are asked to limit their comments to three minutes)
5. Approval of the Minutes of the Previous Meeting
6. New Business - Public Hearings on Agenda Item for a Variance, Appeal or Exception  
*(Repeated and sequentially numbered for each Agenda Item considered at each meeting)*
  - a) Presentation by Applicant, Appellant, Property Owner, Counsel or other Agent
  - b) Presentation by the City Staff
  - c) Public comments on Agenda Item (Limitations: Names of those desiring to comment shall come from sign-up list and shall be limited to three (3) minutes per speaker)
  - d) Rebuttal by Applicant, Appellant, Property Owner, Counsel or other Agent.
  - e) Questions by Board
  - f) Consideration of, deliberation by, and action on Agenda Item by the Board (Requires 75% or four (4) affirmative votes for approval pursuant to Section 211.009(c), Texas Local Government Code)
7. Adjournment

**Section I. Revising the Order of the Agenda During a Meeting:** The order of the Agenda may be amended following Item three (3), at the recommendation of the Chairman and by a simple majority vote of the Board.

### **ARTICLE III Agenda Items**

**Section A. Numbering Agenda Items:** Each appeal or application for a Variance filed in proper form with the required data and fees, shall be numbered serially, made an agenda item, and shall be placed upon the calendar of the Board by the Development Services Director. The agenda numbers shall begin anew on January 1 of each year, and shall be hyphenated with the number of the year in which the said appeal or application is filed.

**Section B. Timing of Agenda Items:** All cases submitted more than thirty (30) days in advance of a regular meeting day, and which the City's public notice requirements have been complied



with, shall be automatically set for hearing on the next regular meeting day. Cases submitted within fifteen (15) or fewer days of the regular meeting day shall be set for hearing on the next month's regular meeting day.

**Section C. Method of Appeal:** Each appeal to the Board from an order, decision or determination of Development Services Director or application for a Variance of any of the provisions of the Zoning Regulations and all other applicable communication concerning Board business shall be submitted on forms provided by the City.

**Section D. Notification:** The Order notifying the appellant or applicant shall also notify same of

their appeal right to State District Court pursuant to Section 211.011, Texas Local Government Code, within ten (10) days of the date of the order is filed in the Board of Adjustment Office in City Hall .

**Section E. Precedents:** No action of the Board of Adjustment shall set a precedent. Each case shall be decided upon its merits and upon the circumstances attendant thereto.

**Section F. Advice and Moot Questions:** No formal requests for advice, or moot questions will be considered by the Board. Any advice, opinion or information given by any Board member or any other official or employee of the City of Horseshoe Bay shall not be binding on the Board.

**Section G. Fees:** All Applicants and Appellants shall pay a non-refundable application fee set by the City of Horseshoe Bay to the Secretary of the Board.

**Section H. Application for Re-Hearings:** No application or appeal to the Board shall be permitted on substantially the same subject matter on the same property prior to the expiration of twelve (12) months from an order of the Board. No application or appeal shall be allowed on substantially the same subject matter on the same piece of property during litigation against the City of Horseshoe Bay and/or the Board of Adjustment on said property.

**Section I. Withdrawal of Application:** Any appellant or applicant may request that his or her appeal or application be withdrawn at any time prior to a final vote or disposition by the Board. Such request shall be granted by the Board.

**Section J. Disposition:** In the final disposition of any appeal or application for a Variance, the decision shall affirm, modify or reverse the refusal of a permit by, or any order or decision of the Development Services Director. In case of an application for a Variance the decision shall set forth that the application is denied or that it is granted with or without conditions. The vote of each member present on each decision shall be by record vote.

**Section K. The Lack of a Quorum for a Variance Hearing:** In the event that the Appellant, Applicant, Property Owner, Counsel, or other Agent is present at the scheduled hearing, but the Board of Adjustment is lacking a quorum for the hearing, the hearing shall be rescheduled without any penalties for the appellant or applicant and no additional application fee shall be

imposed.

**Section L. Special Exception or Variance Parking Requirement:** Any applicant seeking a Variance or Special Exception from Chapter 14 Zoning Ordinance of the City of Horseshoe Bay Code of Ordinances must include, with their application, a complete "Parking Plan" that is to be presented to the Board, must be given to the City of Horseshoe Bay ten (10) days in advance of the scheduled board meeting. In the event that the Board of Adjustment or the applicant wishes to revise the proposal at or before the hearing, the City of Horseshoe Bay may request and receive the right to delay the process until the next Board meeting to review the changes. The Development Services Director may request a waiver of this requirement.

#### **ARTICLE IV Definitions**

**Appeal:** A process to permit a request for relief through application by a person aggrieved by a decision of the Development Services Director pursuant to Horseshoe Bay's Zoning Regulations.

**Appellant:** A person aggrieved by a decision made by the Development Services Director affected by the decision, who appeals in person or through his designated representative for relief to the Board of Adjustment.

**Applicant:** A person who requests in person or through his designated representative, either a special exception to the terms of Horseshoe Bay's Zoning Regulations or a request for a Variance from the terms of Horseshoe Bay's Zoning Regulations.

**Application:** An appeal or a request for a Variance or a special exception in writing specifying the grounds for an appeal contained in a standardized form issued by the Development Services Director.

**Board of Adjustment:** A public and quasi-judicial body charged with the duty to hear and determine Zoning appeals, Variances and special exceptions and pursuant to Section 211.009 of the Texas Local Government Code and Part V, Division 2 of Article 14 Zoning Ordinance of Chapter 14 Zoning of the Horseshoe Bay Code of Ordinances.

**Development Services Director:** The person duly appointed by the City Manager of the City of Horseshoe Bay, as provided by Chapter 14 of the Horseshoe Bay Code of Ordinances, charged with the duty and obligation of issuing permits and certificates of occupancy and with the responsibility for enforcing the provisions of the Building Code and Zoning Regulations for the City of Horseshoe Bay.

**Error:** Refer to Section 211.009(a)(1), Texas Local Government Code.

**Parking Plan:** A site plan that identifies all parking space locations for a proposed project whether onsite or offsite and shows any Variance to be requested.



**Special Exception:** Refer to Section 211.009(a) (2), Texas Local Government Code.

**Variance:** Refer to Section 211 .009(a) (3), Texas Local Government Code.

**Zoning:** A power over land use granted to a city pursuant to Chapter 211, Texas Local Government Code, for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

## **ARTICLE V**

### **Civil and Parliamentary Authority**

**Section A. Construction of Authority:** The construction of authority in all matters associated with the Board of Adjustment, including the Agenda, shall be: 1) the Constitution and statutes of the United States of America; 2) the Constitution and statutes of the State of Texas; 3) the Charter of the City of Horseshoe Bay; 4) the Code of Ordinances of the City of Horseshoe Bay; 5) these Rules of Procedure; and 6) Robert's Rules of Order, Newly Revised.

**Section B. Reference to State and Local Statutes:** The conduct and scope of activity of the Board of Adjustment is governed by and subject to State and local laws including, but not limited to, Chapters 211, 213 and 216, Texas Local Government Code, Chapters 551 and 552, Texas Government Code, the Charter of the City of Horseshoe Bay, Texas, and Chapter 14, Zoning of the City of Horseshoe Bay Code of Ordinances.

**Section C. Parliamentary Authority:** The Rules contained in the most recent edition of Robert's Rules of Order, Newly Revised shall govern the Board of Adjustment in all cases in which they are applicable and not inconsistent with a superior authority.

## **ARTICLE VI**

### **Amendments to Rules of Procedure**

**Section A. Amendments by Existing Board:** These Rules of Procedure may be amended by a majority vote of the entire Board of Adjustment provided previous notice is given at one meeting in advance of any such consideration, and further provided, that an amendment to bring these Rules of Procedure in compliance with a superior statute, rule, procedure or other authority may be considered without previous notice.

**Section B. Annual Review:** These Rules of Procedure shall be reviewed not less frequently than annually. The adoption of these Rules of Procedure by a New Board shall not constitute such review.

## **ADOPTION OF RULES OF PROCEDURE**

Adopted by the Board of Adjustment of the City of Horseshoe Bay on the 26<sup>th</sup> day of September, 2017.

CITY OF HORSESHOE BAY, TEXAS

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David Pope, Chairman

ATTEST:

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Eric W. Winter, Development Services Manager





# CITY OF HORSESHOE BAY

OCTOBER 24, 2017

**To:** Board of Adjustment  
**Thru:** Stan R. Farmer, City Manager  
**From:** Eric W. Winter, Development Services Manager  
**RE:** Discuss, Consider and Take Action on a Request for a 5 Parking Space Variance in the Number of Required Parking Spaces for a Commercial Project on Lot Nos. C19119 thru C19123 of Horseshoe Bay Plat No. H19.2 in the 100 Block of Mulligan Court, to Allow Construction of Five New Commercial Buildings, *Chris Laird Applicant*

The owner is requesting a Variance of 5 parking spaces out of a total of 48 required spaces to be associated with the proposed development of 5 commercial buildings in the 100 block of Mulligan Court that will have 12,092 square feet of retail and office space. The existing layout of this area in Zone 4A Horseshoe Bay Proper (where each lot has a designated parking and access area as part of the lot) makes it difficult to provide the needed number of spaces on the 5 lots.

The Board of Adjustment can only grant a Variance after holding a public hearing on the request and finding that:

1. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land. The applicant states that: "The existing Ordinance requirement can't be met because of limited size of parking areas on the lots for the proposed project." Staff has no issue with this.
2. The Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant. The applicant states that: "We are requesting the Variance in order to allow the construction of 5 new commercial buildings on these five lots." Staff has no issue with this.
3. Granting of the Variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area. The applicant states: "There are no negative impacts on health, safety or welfare to property or the public." Staff has no issue with this.
4. Granting of the Variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Ordinance. The applicant states: "Orderly use of surrounding property will not be prevented by the granting of this Variance." Staff has no issue with this.
5. Granting of the Variance constitutes a minimal departure from this Ordinance. The applicant states: "This Variance request has the least impact as all other options have been discussed with the Horseshoe Bay ACC and City staff." Staff's review found that to be the case.
6. The subject circumstances or conditions are not self-imposed, are not based solely on economic gain or loss, and do not generally affect most properties in the vicinity of the property. The applicant states: "We have been communicating with the ACC and the City staff to assure that we are looking out for our and the City's best interests." Staff's review found that to be the case.

**The Horseshoe Bay Architectural Control Committee has approved the Variance. Public notices were provided and no comments were received. Based on the above review, staff recommends approval of the attached Variance Approval Form.**

**Enclosures: Aerial Photo  
Site Plan  
Variance Approval Form**



# BOA Case o. 2017-03 100 Block of Mulligan Court



REQUEST FOR VARIANCE:  
5 PARKING SPACES  
LOT NOS. C19119, C19120,  
C19121, C19122, C19123  
HORSESHOE BAY PROPER  
100 BLOCK OF MULLIGAN CT

Variance Boundary



1 inch = 84 feet



Cartographic Data For  
General Planning Purposes Only

Coordinate System:  
Texas State Plane/Central Zone/  
NAD 83/feet





**City of Horseshoe Bay Board of Adjustment**  
**Zoning Variance VA 2017-3**

On the 26<sup>th</sup> day of September, 2017, the foregoing application of Lisa Martin for a Variance with regard to the property described in said application, known as Lot Nos. C19119 – C19123 of Horseshoe Bay Plat No. 19.2 and the requested 5 parking space Variance in the 48 total required parking spaces for a proposed five commercial building project in the 100 block of Mulligan Court, was heard and considered by the Board of Adjustment of Horseshoe Bay, Texas. Said application having been found to be in compliance with all other requirements of the City's Zoning Ordinance and a public hearing having been conducted, said application is hereby approved and the following findings are made and incorporated into the minutes of the meeting at which the 5 parking space Variance from the 48 required parking spaces of Sec. 14.02.406(j)(3)(G) in the C-2 General Commercial Classification in Zone 4A Horseshoe Bay was granted:

1. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the City's Zoning Ordinance would deprive the applicant of the reasonable use of the land;
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
3. Granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
4. Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the Zoning Ordinance;
5. Granting of the variance constitutes a minimal departure from the Zoning Ordinance;
6. The subject circumstances or conditions are not self-imposed, based solely on economic gain or loss, or generally affect most properties in the vicinity of the property.

**APPROVED** on this, the 24<sup>th</sup> day of October, 2017 by a vote of the Board of Adjustment of the City of Horseshoe Bay, Texas.

**CITY OF HORSESHOE BAY, TEXAS**

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**David Pope, Chairman**

**ATTEST:**

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**Eric W. Winter, Development Services Director**

STATE OF TEXAS       §

COUNTY OF LLANO     §

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of September, 2017, by David Pope, known to me to be the Chairman of the City of Horseshoe Bay Board of Adjustment.

Seal

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**Kerri Craig, Notary Public**  
**My commission expires 9/3/2018**